

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

CHARLES T. MEHLMAN,  
Plaintiff,

vs.

CINCINNATI CHILDREN'S HOSPITAL  
MEDICAL CENTER, et al.,  
Defendants.

Case No. 1:20-cv-813  
Dlott, J.  
Litkovitz, M.J.

**ORDER**

This matter came before the Court on a telephonic informal discovery conference held on November 15, 2021 pursuant to this Court's Standing Order on Civil Procedures, § I.D. Defendants represented to the Court that they are prepared to immediately file (1) a motion to seal and stipulated protective order and (2) a motion to stay discovery. Plaintiff does not anticipate opposing the first filing but would oppose the second filing.

Defendants argue that the Health Care Quality Improvement Act (HCQIA), 42 U.S.C. § 11101 *et seq.*, and Ohio Rev. Code § 2305.251(A), create a threshold issue of immunity with the potential to moot plaintiff's remaining claims. It is therefore defendants' position that discovery beyond plaintiff's peer review record should be stayed consistent with case law and the legislative purpose that drove the immunity statutes. *See e.g., Reyes v. Wilson Mem'l Hosp.*, 102 F. Supp. 2d 798, 808, 810 (S.D. Ohio 1998). Plaintiff argues in response that the discovery sought on immunity and the remaining substantive claims may overlap and that further delay of this case is not warranted.

For the reasons discussed at the conference, the Court directed defendants to refrain from filing their prepared motion to stay discovery. Instead, plaintiff is directed to submit a letter brief to the Court via email by Friday, November 19, 2021, with authority for its position that, even in the unique context of the potential immunity, full discovery remains warranted at this juncture.

Defendants shall submit a response by Tuesday, November 23, 2021. If plaintiff ultimately determines that formal briefing would be preferable, he shall notify the Court and defendants' counsel in writing and the Court will direct defendants' counsel to file their prepared motion to stay discovery.

**IT IS SO ORDERED.**

Date: 11/15/2021

  
Karen L. Litkovitz  
United States Magistrate Judge